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SOUTHERN DISTRICT OF CALIFORNIA

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

KEVIN VANGINDEREN,
Plaintiff,
v.
CORNELL UNIVERSITY,
Defendant.

Case No. 07-CV-2045-BTM-JMA

Hon. Barry T. Moskowitz

PLAINTIFF'S OPPOSITION TO
DEFENDANT'S BILL OF COSTS

Hearing Date: July 8, 2008

Time: 10:00 a.m.

Place: Courtroom 15

Plaintiff hereby objects to the Bill of Costs filed by Defendant Cornell University on June 18, 2008. A Notice of Appeal was filed in the above captioned matter on June 13, 2008, with jurisdiction transferred to the Ninth Circuit Court of Appeals. The Defendant's listed expenses within the Bill of Costs were entirely discretionary and/or wasteful. The decision to remove this matter to the Federal Court from the San Diego Superior Court was solely a strategic decision on the part of the Defendant and unnecessary to litigate the underlying matter. All expenses incurred as a result should not be borne by the Plaintiff. All process and messenger service expenses incurred by the Defendant were inflated with overnight Federal Express deliveries of a myriad unnecessary documents rather than with the preferred and sufficient United States Postal Service delivery. The Defendant's overzealous behavior in regard to this matter (See Exhibits 1 and 2), should not go rewarded. The Plaintiff respectfully requests the Application to the Clerk to Tax costs be denied.

Dated: July 3, 2008


Kevin Vanginderen, Plaintiff in pro per

CR

EXHIBIT **!**

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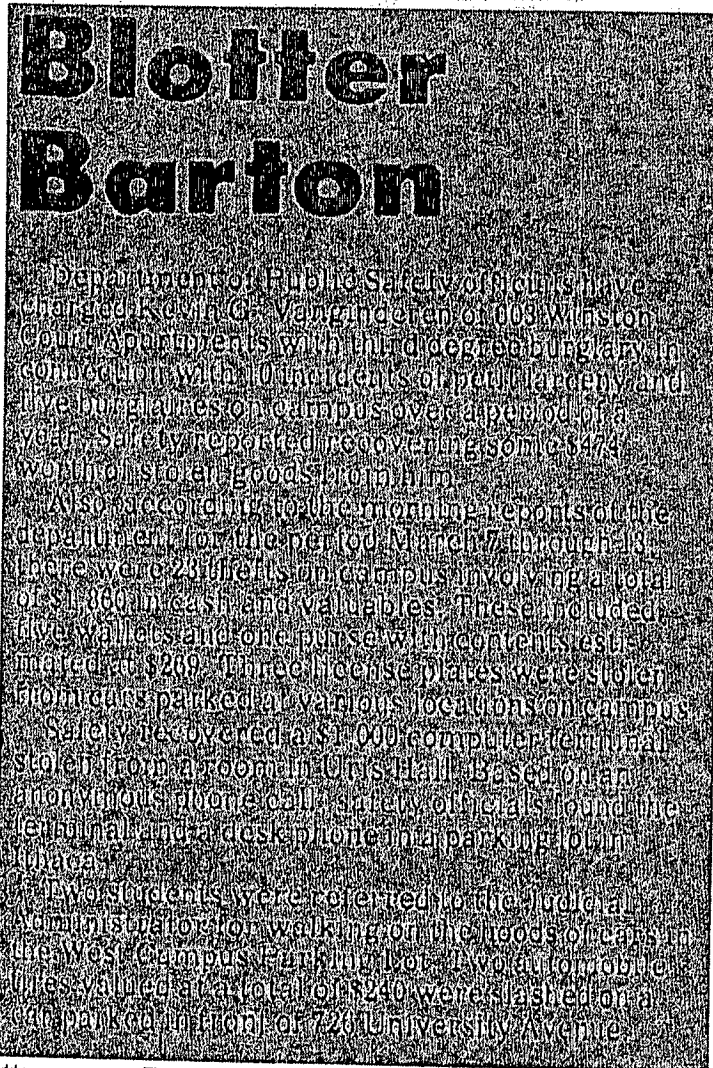
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Kevin Vanginderen '83 sued the Chronicle for libel when this article, first printed 25 years ago, was made available online last year.

Courtesy Cornell Chronicle

Excerpt from the March 17, 1983 issue of the "Cornell Chronicle":



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EXHIBIT 2



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Cornell U. Prevails Over Alumnus in Suit Over Digitized Material

Cornell University scored a victory this week when a federal judge dismissed a \$1-million lawsuit from an alumnus who accused the university of libeling him and disseminating private information about him online. The alumnus, Kevin Vanginderen, was angered that information about his run-ins with the law as a Cornell student were easily accessible on the Web via a Google search. The information was on the Web because the university library digitizes the Cornell Chronicle, a university newspaper, and a 1983 issue of the paper detailed Mr. Vanginderen's alleged involvement in campus thefts.

Mr. Vanginderen, now a lawyer, asked Cornell to remove references to him from the digitized version of the Cornell Chronicle. The university declined.

The judge, Barry Ted Moskowitz, of the U.S. District Court in San Diego, Calif., concluded Tuesday that because the news information about Mr. Vanginderen was mostly accurate, the university did not defame him.

The judge sidestepped the larger issue raised by the case: Are college libraries obligated to expunge embarrassing and false information about someone from their digital archives? Nelson Roth, Cornell's deputy university counsel, said because the case concerned this question, the university chose to vigorously defend itself against the lawsuit. If

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archivists “were required to go back and fact check information readily available on the shelf, it would bring digitization to a grinding halt,” he said during a phone interview. And Anne R. Kenney, Cornell’s chief librarian, said the library has no plans to alter its digitization procedures as a result of the case. —
Andrea L. Foster

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Happiness is often doing what you want to do. Longevity is, quite often, doing what’s right. Life is, more often than not, balancing what gives you happiness versus that which gives you longevity

VERIFICATION

STATE OF CALIFORNIA, COUNTY OF San Diego

I have read the foregoing _____ and know its contents.

☐ CHECK APPLICABLE PARAGRAPHS

☐ I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

☐ I am ☐ an Officer ☐ a partner _____ ☐ a _____ of _____

a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. ☐ I am informed and believe and on that ground allege that the matters stated in the foregoing document are true. ☐ The matters stated in the foregoing document are true of my own knowledge, except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

☐ I am one of the attorneys for _____ a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on _____, at _____, California.
I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

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STATE OF CALIFORNIA, COUNTY OF San Diego

I am employed in the county of San Diego, State of California.

I am over the age of 18 and not a party to the within action; my business address is: 637 Third Avenue, Suite E-1, Chula Vista, CA 91910

On, July 3, 2008 I served the foregoing document described as A copy of the Plaintiff's Opposition to Defendant's Bill of Costs

_____ on Defendant Attorneys in this action

☐ by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list:

☒ by placing ☐ the original ☒ a true copy thereof enclosed in sealed envelopes addressed as follows:

Bert Deixler, Esq., Proskauer Rose LLP, 2049 Century Park East, Suite 3200, Los Angeles, CA 90067-3206

Valerie Cross Dorn, Esq., Office of University Counsel, 300 CCC Building, Garden Ave., Ithaca, New York 14853

☒ BY MAIL

☒ *I deposited such envelope in the mail at 637 Third Avenue, Chula Vista, California.
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